

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

YOLANDA HERRERA,)	
Petitioner)	CIVIL ACTION NO.
)	05-10441-MLW
v.)	
)	
UNITED STATES OF AMERICA,)	
Respondent)	
)	

**Government's Motion To Extend Time
Within Which To File Its Response To
Petitioner's Motion Under 28 U.S.C. § 2255**

The United States of America, by Michael J. Sullivan, United States Attorney, and Michael J. Pelgro, Assistant U.S. Attorney, hereby files this motion to extend the time within which to file its response to the petitioner's motion under 28 U.S.C. § 2255. The government requests that the Court extend the time to September 6, 2005.

In support of this motion, the government states as follows:

1. In June 2002, the petitioner pleaded guilty to an indictment, Criminal No. 01-10056-MLW, charging her with conspiracy to distribute heroin and, in September 2002, she was sentenced by this Court to 87 months' imprisonment and 5 years' supervised release. The petitioner filed a direct appeal, challenging the fine imposed by this Court, and the Judgment was affirmed by the Court of Appeals in June 2004.

2. On or about March 4, 2005, the petitioner filed a motion under 28 U.S.C. § 2255 to vacate her sentence. The

petitioner has raised a conclusory claim of ineffective assistance of her former attorney during sentencing as well as claims under the Booker and Blakely decisions. On June 22, 2005, the Court entered an Order requiring the government to file a response to the petition.

3. The government needs additional time to obtain its criminal case file from the archives section of its office and to review the transcripts of the Rule 11 and sentencing hearings (the Court conducted several days of evidentiary hearings in connection with the sentencing of the petitioner and her co-defendants).

4. The undersigned government counsel is heavily involved in other multiple-defendant narcotics investigations and cases as well as in supervisory and administrative duties within the U.S. Attorney's Office. In addition, the undersigned government counsel will be on vacation during the weeks of August 22 and August 29.

The government therefore respectfully requests that the Court extend the time within which the government is to file its

response to September 6, 2005.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ Michael J. Pelgro
Michael J. Pelgro
Assistant U.S. Attorney

DATED: August 2, 2005.

CERTIFICATE OF SERVICE

This is to certify that I have this day served upon the person listed below a copy of the foregoing document by depositing in the United States mail a copy of same in an envelope bearing sufficient postage for delivery:

Yolanda Herrera
Inmate No. 23564-038
FCI Danbury
Federal Correctional Institution
Route 37
Danbury, CT 06811

This 2nd day of August 2005.

s/Michael J. Pelgro
MICHAEL J. PELGRO
ASSISTANT UNITED STATES ATTORNEY